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# Race for the WTO Director-General job

Seven candidates speak

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## Seven candidates speak

Edited by

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Taeho Bark, Anabel González, Tim Groser, Ahmad Thougan Hindawi, Alan Kyewematen, Amina Mohamed and Mari Pangestu



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# Foreword

World trade governance is at a crossroad. For 60 years, the GATT/WTO advanced on two legs – a liberalisation leg and a rule-making leg. Each of the last three Rounds – the 1960s Kennedy Round, the 1970s Tokyo Round, and the 1980s Uruguay Round – advanced both legs. They liberalised global trade and updated trading rules to reflect their decade’s new realities. This system is broken.

There was no Round in the 1990s and the one started in 2001 – the Doha Round – is still not finished and unlikely to do so this decade. That will make 20 years without any significant update of the rules. Plainly, the WTO will have to find a new business model. The ‘advance on two legs’ model is kaput.

It is in this context that the WTO is searching for a new leader. By the end of Summer 2013, the new Director-General should be in office. The selection process is open, public and transparent. Unlike the IMF or World Bank, the new leader is not chosen by a cabal of powerful nations behind closed doors.

Nine candidates have announced their intentions. In the spirit of openness, two long time CEPR researchers – Bernard Hoekman and Petros C. Mavroidis – had the brilliant idea of inviting all the candidates to write a short essay laying out their vision for the WTO. Seven of the candidates responded in time and their essays are published in this eBook. From CEPR’s perspective, the book has two distinct purposes:

- It presents the candidates and their thinking;
- It provides deep insight into the challenges facing world trade governance and possible solutions.

This collection of essays is probably the best available compilation of challenges facing world trade today. It is also without doubt the best collection of solutions. This set of

authors is, after all, the ‘dream team’ of WTO analysts. They all have decades of first-hand experience. They are all extraordinarily talented. And they are all articulate, as you will see in reading the essays.

I am confident that this book will be an important source of reference long after the selection process is over. The Editors were, as always, ably assisted by Team Vox – especially Anil Shandasani and Charlie Anderson. The Editors and CEPR are especially grateful for their rapid and highly professional response.

Richard Baldwin

Policy Director

CEPR

4 April 2013

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# Introduction: The choice of a new WTO Director-General

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**Bernard M. Hoekman and Petros C. Mavroidis**

European University Institute, Columbia Law School and CEPR

The race for Director-General (DG) of the WTO has never attracted so much interest. Indeed, this is the first time ever nine individuals from different parts of the globe, all with extensive experience in the area of trade policy, have thrown their hat into the ring and declared their will to head the WTO in the years to come.

The set of candidates includes three women; four currently are Ministers in the sitting governments of their countries; and three others have had Ministerial experience. Three of the nine are from OECD member countries (Korea, Mexico and New Zealand); five originate in what the World Bank defines as middle-income countries (Brazil, Costa Rica, Ghana, Indonesia, and Jordan) and one comes from a low-income country, Kenya. However, as a result of one of the many idiosyncrasies of the WTO, Korea and Mexico are not regarded as ‘developed countries’ in the WTO. Thus, eight of the nine candidates are from what are characterised as developing countries in the WTO.

While it is certainly not the case that ‘anyone can apply’, the nomination and selection process is one that sets the example for other international organisations. In contrast to other multilateral agencies, the approach is open and relatively transparent.

- There is no explicit ‘tour de role’ under which candidates rotate on the basis of their geographical origin, with ‘this time it is the turn for someone from Asia, Africa, Europe, etc.’
- Nor is the position a fiefdom of a particular country or region, as has been the case for the IMF and the World Bank, with the former always having been led by a European and the latter by a US citizen.

- Also unique is that it is known publicly and up front who the candidates are.

In contrast to what happens in appointing the heads of many other international agencies, candidates must declare an interest in the job and defend their candidacy in public. Government officials and other interested parties certainly lobby for their preferred candidate (especially if it is someone from their country or region), but everyone knows who is in the running. There is no scope for a ‘dark horse’ to materialise from nowhere and be anointed *deus ex machina*.

There have been only eight DGs of the multilateral trade regime, spanning the GATT and WTO years. Historically the DG has tended to be European: Eric Wyndham–White (United Kingdom); Olivier Long (Switzerland); Arthur Dunkel (Switzerland); Peter Sutherland (Ireland); Renato Ruggiero (Italy); Mike Moore (New Zealand), Supachai Panitchpakdi (Thailand); and Pascal Lamy (France). There is a general sense among much of the membership that the next DG should come from a developing country, although there is no formal requirement or agreement to this effect.

## **This eBook**

The objective of this eBook was to bring together in one place the views of the candidates for the DG position – all very experienced trade-policy officials – on where the trading system stands and where it needs to go. To this effect, we invited all nine candidates to contribute an essay laying out their perspective on the ‘state of the WTO’, their view on the role they would play as (potential) head of the institution, and the prospects for the institution itself in the years to come in light of both the immediate and the more medium-term challenges that it is facing. Only one of the candidates can become the next DG, but the views of all of the contenders are of interest and relevance in helping to map out the possible responses to the challenges that confront multilateralism in trade.

## **The state of the WTO**

The WTO is not going through the easiest of times. Almost 12 years ago the membership launched the ‘Doha Development Agenda’ (DDA). Today we are nowhere near a successful conclusion. Major trading nations seem to be more and more unwilling to engage seriously on the DDA. For several years they devoted more financial and political resources to preferential trade agreements. An increasing number of voices argue in favour of re-dimensioning the DDA and ‘harvesting’ a limited set agreements on issues where this feasible, or in declaring ‘Doha is dead’. At the same time the WTO continues to provide valuable services to its members in areas such as transparency and monitoring of trade policies and the adjudication of disputes – technical activities undertaken mostly by the WTO Secretariat that require active management and leadership.

It is not our aim here to enumerate the challenges that confront the WTO as an institution. The essays in this volume make clear that these challenges are numerous. Clearly the next DG will not be in an enviable position. He or she will not only have to guide and support the membership in making tough decisions on the DDA but provide leadership in ensuring the continued relevance of multilateral cooperation to address policy spillovers.

The nine candidates are, in alphabetical order:

- Ambassador De Azevêdo, Roberto Carvalho (Brazil)
- Minister Bark, Tacho (Republic of Korea)
- Dr. Blanco Mendoza, Herminio Alonso (Mexico)
- Minister González, Anabel (Costa Rica)
- Minister Groser, Tim (New Zealand)
- Dr. Hindawi, Ahmad Thougan (Jordan)
- Mr. Kyerematen, Alan John Kwadwo (Ghana)

- Ms. Mohamed, Amina C. (Kenya); and
- Minister Pangestu, Mari Elka (Indonesia)

Seven of the candidates responded affirmatively to our invitation, and provided an essay laying out their views and vision for the WTO. In a number of instances their essays draw on statements that they prepared in presenting themselves to the WTO General Council.

Taken together the seven candidates who responded represent a broad cross-section of the WTO membership. There are significant differences in per capita incomes, population, levels of human development, and national origin. One commonality is that none originate in one of the major players that account for a large share of world trade or that traditionally have played a dominant role in the functioning of the WTO. While their views are of course strictly personal, their perspectives taken together give a sense of how the ‘representative’ WTO member may regard matters.

### **Candidates’ agreements, differences and nuances**

Since the aim is to give the floor to the candidates, we will refrain from inserting our own views on the issues or comparing the views that are expressed. Some of the key questions that confront the next DG have been summarised by former USTR Robert Zoellick: whether to push for a small package that can be ‘harvested’ from the DDA negotiations to date; whether to support the conclusion of an International Services Agreement among a subset of willing WTO members; whether to devote more attention to so-called ‘critical mass’ agreements to completely liberalise trade in a specific sector; and how to address policy issues that are currently not being negotiated in WTO fora. Others will no doubt have additional questions, such as how to deal with the economic development concerns and objectives that were a central feature of the launch of the Doha Round negotiations.

We leave it to the reader to assess to what extent the candidates express their views on these and other issues. What we will say is that while – not surprisingly – all the

candidates are strong proponents of the WTO, there are many commonalities in their diagnosis of the various challenges that confront the WTO and how to respond to some of them. But there are also interesting differences and nuances regarding the relative importance of – and proposed approaches to address – the challenges. Many agree that there must be greater acceptance of ‘variable geometry’ to allow progress to be made incrementally on issues; and most also stress the need for the WTO to be able to discuss and address policy matters that are currently not on the table in the DDA. Some of the candidates are quite explicit about the need for renewal of the institution, including for example through actions to engage more with business and other stakeholders and to strengthen the ability of the Secretariat to support the WTO membership broadly defined.

The remainder of this Introduction briefly describes the process that is being followed in selecting the DG. More detail for those readers interested in the intricacies surrounding the selection process can be found on the WTO’s website at [www.wto.org/english/thewto\\_e/dg\\_e/dg\\_selection\\_process\\_e.htm](http://www.wto.org/english/thewto_e/dg_e/dg_selection_process_e.htm).

## **The selection process: History and current practice**

WTO processes and procedures build on those that were developed during the GATT years. The GATT was not conceived to be a stand-alone institution; it was originally meant simply to be a treaty under which signatories agreed to make trade liberalisation commitments in anticipation of the creation of an International Trade Organization (ITO). One result of the ITO never coming into being was that the GATT contained no statutory provision regarding the election of its DG. Over time, different ad hoc processes were agreed by the members (called Contracting Parties in the GATT years) acting by consensus. These ad hoc mechanisms were also applied in the selection of the first three WTO DGs: Renato Ruggiero, Mike Moore and Supachai Panitchpakdi.

The selection of the latter two proved very difficult. Upon the departure of Renato Ruggiero in early 1999, drawn-out and fractious consultations among members failed

to arrive at a consensus on the selection of his successor. Out of an original field of four candidates, two from developing and two from high-income countries, members split between two candidates, both of whom lobbied hard for the job: Mike Moore, a former Prime Minister of New Zealand, and Supachai Panatchpakdi, a former Deputy Prime Minister of Thailand.

In the end, a compromise deal was struck under which each served for three years. The process was widely regarded as the most contentious and divisive in the history of the GATT/WTO. This made it clear to the membership that they needed to agree on a specific process to appoint the DG.

In 2003 the WTO membership agreed on the selection process that would be followed for the appointment of the DG. This process was applied for the selection (and re-appointment) of Pascal Lamy. The 2003 procedures provide a framework which allows for adjustments. In what follows, we explain the main features of the 2003 procedures; in the following sub-section we discuss the adjustments that were subsequently agreed and that apply in the on-going selection process for the next DG.

### **Today's procedure**

The membership strives to select its DG by consensus. Intermediate voting might occur to reduce the field of candidates, but the final selection should, in principle, be based on consensus. The Chair of the General Council (GC) is responsible for conducting the process, assisted by the Chair of the Dispute Settlement Body (DSB), and the Chair of the Trade Policy Review Body (TPRB): these are so-called 'Facilitators' in WTO-parlance, their task being the administration of the selection process from beginning to the end.

The selection process should start nine months before the expiry of the incumbent DG's mandate, and within thirty days from kick-off, nominations should be submitted.

WTO members can nominate nationals of their own (but not nationals of other WTO members) with extensive experience in international relations.

The mandate for a DG is limited to a four-year term, renewable once, for a total of eight years. Incumbent DGs can of course reapply, but should have no expectations of automatic re-appointment. Geographic diversity does not trump meritorious appointments, but between two equally meritorious candidates, the membership is urged to privilege the national of the WTO member that had never appointed a DG up to that stage.

The process for selecting the next DG started on 1 December 2012 (since Pascal Lamy's term expires on 1 September 2013, i.e. nine months before the expiry). Ambassadors Bashir (Pakistan), Fried (Canada), and Reiter (Sweden) are the three Facilitators. In principle, four rounds of consultations with the WTO membership can take place; although the three facilitators have indicated that they will aim to limit the process this time to three rounds. Only two candidates should make it to the last round, which means seven candidates must be eliminated in the first two rounds (four candidates to be eliminated in the first round, and three additional ones in round two).

To proceed with eliminations, in round one the Facilitators request the WTO membership to identify to them their top four candidates without ranking them. In round two WTO members will subsequently be requested to submit their top two candidates, that is, after four candidates will have been eliminated. In order to obtain this information the Facilitators will organise a series of meetings ('confessionals' in WTO-parlance) with each WTO member in order to discuss their choices. These 'confessionals' are confidential and opinions expressed by individual WTO members to the Facilitators will not be divulged to the WTO membership more broadly

## About the editors

**Bernard Hoekman** is program director, Global Economics, Robert Schuman Centre for Advanced Studies (Global Governance Programme) at the European University Institute. Prior positions at the World Bank include Director of the international trade department; Research Manager of the trade team in the Development Research Group; task leader of the trade capacity building program of the World Bank Institute. During the Uruguay Round of trade negotiations he worked as a research economist in the GATT Secretariat (1988-93). He has published widely on the multilateral trading system and economic development, trade in services, and preferential trade agreements.. He is a graduate of the Erasmus University Rotterdam, holds a Ph.D. in economics from the University of Michigan and is a Research Fellow of the London-based Centre for Economic Policy Research and a Senior Associate of the Economic Research Forum for the Arab Countries, Iran and Turkey.

**Petros C. Mavroidis** is professor of European Union and World Trade Organization (WTO) Law at the University of Neuchâtel and at Columbia Law School, New York. He was previously Chair for Competition Law at European University Institute, Florence and member of the Legal Affairs Division at the WTO. He is chief co-rapporteur at the American Law Institute (ALI) for the project “Principles Of International Trade Law: The WTO” and rapporteur for the ILA (International Trade Law Committee).

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# Challenges and way forward of the WTO

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## **Taeho Bark**

Minister for Trade of the Republic of Korea

Since the start of the 21st century, the WTO has achieved little success in the negotiations to open global markets. Failures in negotiations are becoming routine and problems are becoming structural in nature. For the past 12 years, the WTO members have applied various modes of negotiations and utilised many different levels of engagement including significant high-level participation and involvement. Yet many issues remain unresolved.

## **Doha Development Agenda**

The Doha Development Agenda is without a doubt the most important task of the WTO at present. As the Ministerial is fast approaching, it is also clear that the year 2013 will provide little respite compared to that of previous years. The Bali Ministerial in December must yield some tangible outcomes and must do this in order to both to realise the actual economic benefits as well as to help restore the confidence of members and the broader credibility of the WTO. As early as possible, members need to lay a solid foundation for the success of the Ministerial. They should then build upon that groundwork and work diligently towards achieving real outcomes, at least, in areas such as trade facilitation as well as some agricultural and development issues.

Expectations hinge on whether and how members can seize the momentum to revitalise the remaining agenda of the Doha Round after the MC 9. Indeed, the hope is that all of the pieces will be on the table by then; however, what remains to be done is integrating fresh perspective on how to sort those pieces out. It is at this point that

members should move beyond the past stand-offs and lingering divisions. Though these challenges cannot be taken lightly, it is my strong hope that the outcomes from Bali will help foster the right atmosphere to address the remaining issues within the DDA. If successful, these efforts and outcomes can serve as a significant stepping-stone toward accomplishing the ultimate single undertaking.

## **Development goals in WTO**

Throughout all of these negotiations, development is the core pillar centred on raising standards of living, as set out in the Preamble to the WTO Agreement. Importantly, development must improve the welfare of all people, not just particular sectors or industry groups. For some countries development means joining and moving up in the global value chain, and to others, it involves a stabilising of their financial systems. To many countries however, development is still grounded on the intention of rising out from certain levels of poverty. Without question, the WTO can contribute to achieving all of these development angles through greater trade opportunities and capacity building as well as through more predictable rules.

Trade has special meaning for developing countries, as it can be an important tool for economic development. Special and differential treatment must be in keeping with that aim, and should be about creating more opportunities for the products of developing countries. However, that does not complete the picture or provide a full solution. To benefit from the global market, the supply side constraints of developing countries must be addressed through aid for trade. Considering this, it will be useful to strengthen the WTO's relationship with both development agencies as well as multilateral and regional development banks including the World Bank.

## **Challenges of the Multilateral Trading System**

There are a number of other challenges facing the WTO in its seeking to strengthen the multilateral trading system.

- Keeping up with 21st-century issues

While, from a comparative standpoint, the WTO addresses traditional challenges, we all recognise that the world is rapidly changing. 21st-century issues, such as green energy, the global value chain, food security, standards and safety, natural resources, and water management, all have direct and indirect effects on trade. To keep abreast of such changes, the WTO must also evolve in an organic way, while staying within the boundaries of its mandate as a trade organisation. On this point, active communication with the private sector and civil society is of growing importance. This is especially true if the WTO is to have the capacity to identify important needs and demonstrate that international disciplines on trade can help address these changing needs in dynamic environments.

As it is not a discussion-only forum, the WTO must meet with a rule-making mindset. Though it is too early to embark on negotiations, the existing committees may take up the relevant issues within their existing mandate with a view to determining how these issues are related to trade and the WTO agreements. These committees may start working on soft guidelines, or simply conclude that the current agreement is not capable of dealing with the issues. Such a finding also would be useful in terms of the process of restructuring the WTO agenda.

- Outreach and building support for trade

Another more fundamental challenge is what could be identified as a somewhat general, unfavourable sentiment toward trade liberalisation among many constituencies. Without question, interest and support at all levels in member countries are essential for the success of trade negotiations. In this regard, domestic politics should be shaped to garner support for trade. Support from the multitude of businesses that will directly benefit is also indispensable. It is essential however that the ultimate beneficiaries – consumers and the general public – are able to clearly see these benefits and do not fall victim to misinformation concerning trade.

Therefore, a critical role for the WTO is to proactively disseminate practical information on the benefits of trade. The annual Public Forum is a useful occasion for this. We can and need to do more, both to explain trade and to make the critical connection between trade and development.

- Institutional challenges

The other challenge, perhaps most frequently called for from outside the WTO, is the enhancement of the institutional efficiency. The WTO needs to listen to those suggestions and critiques and find ways of accommodating those items of the reform agenda. Given the merits of the WTO's existing assets, adjustments and improvements where necessary are more desirable than a sweeping reform. Indeed, although the WTO has not yet brought negotiations to closure, it has made many valuable inroads. For instance, the recent increase in WTO disputes is actually a sign of growing faith in the WTO system, and reaffirms its relevance in a global economy. Importantly, the WTO has been effective in keeping protectionism in check and containing trade disputes within the system.

One of the most frequently mentioned issues on the reform agenda is the decision-making process. Many critics argue that the consensus method does not fit the current environment with such a large number of members. Taking into consideration the full scope of concerns however, no reform proposals to date, including the proposal of having the Executive Board or introducing a weighted voting system, can promise a more efficient and effective institutional functioning than the current method. Moreover, the immediate problem in the negotiations is not the level of disagreement amongst all members. Even a handful of countries find it difficult to find complete synergy on a given issue. The consensus method, despite its shortcomings, is still the most rational, open-minded way to reach a decision and should not be cast aside or disregarded.

- Preferential trade agreements

Last but not least, Preferential Trade Agreements (PTAs) present both challenges and opportunities. Many experts have put forward the idea that PTAs do not replace but

rather complement the WTO. For that, the WTO should do its part to help make PTAs more compatible both with one another and with the WTO framework. Faced with the reality of proliferation of PTAs, the next question for the WTO is how it should adapt to the new landscape. As a point of fact, the GATT/WTO system itself has never consisted of pure multilateralism. It allows for economic integration among countries in GATT Article XXIV and GATS Article V. Many members have formed a plurilateral agreement on government procurement. The achievement in the ITA after the WTO's launch is a good model of preserving the MFN principle on the basis of critical mass.

However, we all must be wary of even slight temptations for too quickly losing faith in multilateral efforts by pinning the plurilateral choice as a convenient exit. At the time of the Tokyo Round code, only a handful of developed countries dominated the world economy and their agreement was qualified as a global rule. The global economy has now undergone a sea of change in its very structure and the extent of its diversity. Exploring different approaches in the negotiations is a good, and perhaps the only possible, way forward in difficult times. All of these efforts must be directed at and moving towards one ultimate point: the agreement of all members, both developing and developed.

## **Closing**

While the WTO negotiations are in stalemate, the global economy has experienced serious financial crisis and still remains stagnant. It is now more than ever that the WTO needs to deliver a multilateral outcome. Given our current economic climate such an outcome could potentially serve as the most sustainable and effective stimulus package. Therefore the WTO must be able to contribute to inclusive growth and job creation through global trade opening while at the same time, ensuring that trade opening serves the development needs of every country.

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# A vision for the WTO

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## **Anabel González**

Minister of Foreign Trade of Costa Rica

Trade is a powerful instrument to foster growth and development. We have been privileged to witness, in our lifetime, the ability of trade to lift millions of individuals out of poverty in many parts of the world. But trade is equally key in transforming productive structures, increasing productivity, enhancing access to technology and fostering innovation, particularly when firmly embedded in broader national growth and development strategies. As the Preamble of the Marrakesh Agreement clearly states, trade is and should be about “raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand”. Trade liberalisation is a means to development, not an end in itself.

Today, the world economy still feels the headwinds of continued imbalances and uncertainty. Such uncertainty weighs on global trading volumes, which grew by a mere 2.5% last year. We need more robust trade growth, not just because such growth will bring greater global prosperity but also because trade can help to generate more – and better – jobs.

We need more trade for all countries. The fact that developing countries account today for about one-half of aggregate trade flows is unambiguously good news. Still, the distribution of that growth, welcome as it otherwise is, remains concentrated in too few nations. For many in the African continent and elsewhere, the least developed countries in particular, the challenge of integrating in the world economy remains daunting. High trade costs and supply-side constraints can durably hamper the ability of firms to take advantage of opportunities, sowing frustration and disenchantment towards the idea of

market opening. The WTO must be ready and properly equipped if it is to assume a key role in unleashing the potential of trade for all.

The WTO is the house of trade. As such, its core mission is twofold: to open markets – including through effective monitoring and whistleblowing – and to design and implement the rules to govern and pacify trade relations among members. It is as simple – and complex – as that. The WTO and the GATT before it have been carrying out this dual task very successfully for three generations. This is a precious institution, supplying an array of global public goods that we must protect and nurture.

These are ‘interesting times’ in the sense of the Chinese proverb. Few periods in world history have witnessed such a real-time confluence of changes in the political, economic and technological fields, some of which exert influences way beyond the WTO and trade governance. Others are reshaping the geography and very nature of production and exchange. These include the global fragmentation of international production, the increase in south-south trade and investment activity, and the rise of international trade in services to cite just some of the most salient trends, bringing with them new questions and challenges that the WTO membership must contend with.

While these changes are taking place at breakneck speed, progress in the Doha Round has been painstakingly slow, with negotiations reaching an impasse that could not be resolved in its original format, as recognised by members at the Eighth Ministerial Conference. The process that has taken place in Geneva in the past few months inspires a renewed sense of optimism – cautious to be sure – that the members will be able to produce concrete deliverables in Bali, in trade facilitation, some issues in agricultural trade, and on special and differential treatment – all topics of particular importance for least-developed countries. It is within our collective reach to do so. And this would make for a most welcome, and confidence-promoting, step forward in multilateral cooperation, reinvigorating the WTO as a negotiating forum.

We must continue to chart the best ways of delivering on the Doha Development Agenda (DDA) mandate. This remains critically important, not least in terms of institutional

legitimacy. We are all heavily invested in Doha and have put great efforts into it. Resolution of the DDA's agenda is long overdue, above all as a response to the trade needs of developing and least developed countries. In listening closely to members and working tirelessly to promote convergent viewpoints, the next Director-General must have as a central priority to bring closure to the round and ensure that it fulfils its stated aims.

In addressing today's new challenges and thinking about the WTO of tomorrow, we need to engage in a candid discussion about an immediate and medium-term agenda. Subjects as relevant and so closely intertwined as the relationship between trade and investment, climate change, natural resources and global value chains cannot be ignored or left for other institutions or agreements. Not all of these deliberations need to become part of a negotiating agenda. Still, anchoring the WTO's centrality in the international trading system today requires that no topic of relevance to the world economy be taboo for the house of trade. I do not advocate that we put aside the DDA in favour of new topics, but I do believe that members can both complete the tasks of today while keeping an eye on tomorrow's challenges.

In discussing trade in different formats, a diversified portfolio of trade partnerships is also useful in preventing protectionism, exploiting neighbourhood effects and boosting growth. Preferential trade agreements (PTAs) can play a role in promoting further market opening – and regional markets are sometimes easier to access for developing countries. They may allow for useful experimentation with new rules in novel trade-related areas. Moreover, in some instances, they may simply be the proper locus of trade governance as not everything needs to be defined at the global level.

The fact that each WTO member is, on average, party to 13 PTAs reflects members' willingness to integrate with the aim of promoting trade and investment and to explore all useful means to do so. The downside, of course, lies in the dangers posed by the discrimination that is inherent in these agreements and in their potential to exclude others. The trade marginalisation of countries, particularly less developed ones, does not

bode well for the system and may exacerbate frictions among nations. In this context, negotiations of plurilateral or critical mass agreements that are open to all members and brought within the realm of the WTO, can and should provide a multilaterally friendly means for advancing the trade agenda.

Another question that is vividly debated, particularly in academic and civil society circles, relates to whether the WTO needs institutional reform. My own sense is that the WTO system is robust and has in fact evolved incrementally in a number of important areas. One example is the excellent study on trade and employment the WTO and International Labour Organization jointly produced on a topic that had proven deeply divisive at the Seattle Ministerial. The same can be said about the workings of the Green Room, the participation of non-state stakeholders in the WTO dispute-settlement mechanism and the vibrant debates held at the WTO Public Forums which have opened the institution to the outside world as never before.

Still, the world keeps evolving and institutions, like firms, workers and nations, need to adapt to such change. Valid questions confront members on how best to adapt the WTO. As in other areas, there may be a number of specific issues which, at the right time, anchored in an adequate level of mutual trust, and based in sound analysis, should not escape a thorough airing among members.

The WTO is a member-driven organisation. In line with this basic principle, the Director-General's task is to lead the institution under the guidance of members so as to make sure it delivers on its mandate. Beyond its key roles in market opening and rule-making, the institution also dispenses important responsibilities in dispute settlement, monitoring and surveillance, capacity building – now significantly enhanced through the Aid for Trade initiative, research and information sharing, interaction with other organisations, and public outreach and advocacy of the values and principles of the organisation. The Director-General should be ready to work hand-in-hand with members and the Secretariat in delivering on each of these functions in the best tradition of Chief Facilitator.

I was fortunate to get to know first-hand the workings of the Secretariat and, most importantly, to appreciate the professionalism, expertise and dedication of this cadre of public servants. It would be a great honour to lead this remarkable group of people in a new capacity. Managing the Secretariat is a centrally important function of the Director-General: she or he is to take due account of members' needs to maximise value for money, particularly in today's resource-constrained environment, while making sure that this very high-calibre group of professionals remains motivated and engaged in serving members.

I am ready to assume the position of Director-General with independence, passion and responsibility to care for, lead and strengthen this institution for the benefit of its members and the citizens of the world.

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# WTO: At the crossroads

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## **Tim Groser**

Minister of Trade and Member of Parliament of New Zealand

Make no mistake about it: the WTO is at the crossroads. Some long-overdue baby steps aside, we have completely lost momentum. The number one responsibility of the new Director-General is to help the membership recover that momentum.

Consider the bicycle theory of international trade – it is said that, like a bicycle, the Multilateral Trading System, underwritten by the WTO, cannot forever stay on the same spot; it must eventually move forward or risk slipping backwards into protectionism. This theory is manifestly wrong. Geneva is, and always has been, full of accomplished trick cyclists who can keep the negotiating bicycle perpetually stuck on the same spot, with only a few unsightly wobbles from time to time. But the trade negotiations peloton passed us some years ago. Its riders – negotiators of regional trade agreements - have bypassed la route de Lausanne leading to the WTO building and rushed down new and more promising pathways to FTAs, closer economic partnerships and new or expanded customs unions.

There is a bigger game of trade and investment integration taking place globally. The WTO does not have monopoly rights. If we continue to achieve only glacial progress in Geneva, progress will take place outside Geneva. Long term, there is a serious question mark here about the relevance of the WTO.

Forget any idea of negotiating new 'rules' or procedures to elaborate the legal foundations of Article XXIV and GATS V to hobble the competition we are facing from regional trade agreements. A moment's political reflection would tell you why. Put simply, the overwhelming majority of the WTO club also have multiple club

memberships in these regional agreements and are planning to join more. The new proposed ‘Transatlantic Trade and Investment Partnership’ between the US and the EU negotiations will be simply the latest and greatest challenge to the relevance of the WTO, given that collectively the EU and US account for around 50% of world GDP and 30% of world trade.

WTO members, large and small, are not going to support any consensus to change the formal rules around RTAs, when so many WTO members lack confidence that the WTO can support their burgeoning trade agendas. There is only one legitimate response: the WTO has to make itself relevant. As they say: ‘physician, heal thyself’.

I am fully aware that there is more to the WTO than its negotiating function. There is its advocacy function, we need to build on and expand our early efforts in trade-related development assistance, we need to improve implementation, we need to maintain and strengthen the judicial function. More generally, we need to be the ‘go-to’ place for innovative trade-policy thinkers and practitioners. But ultimately, all roads come back to the negotiating function. If we fail forever to repair this, support for all the other vital functions will erode in time.

The fate of international institutions that lose relevancy is rarely if ever terminal. They continue to exist but over time they become less and less relevant. Their statements and communiqués become of increasingly marginal interest to their stakeholders. Given that the WTO remains one of the most successful institutions of the multilateral world – and an engine of trade and development – we have a huge collective interest in avoiding this dismal outcome.

Like so many other trade-policy practitioners and thinkers, I am hoping for a solid result in Bali, based around a deal on Trade Facilitation, some forward movement on a range of development and LDC issues and one or two other proposals in areas such as agriculture that are under active consideration. The political contours of an outcome will eventually take shape. But even on the basis of the most optimistic plausible outcome from the 9th WTO Ministerial Meeting, we all know that there is a mountain

of unresolved issues that will not be addressed directly at Bali. It is a mountain that we will have to climb at some point and in some way.

That said, we have solid assets. If the WTO were a company, not an international institution, we would still be considered the dominant market player with a good brand, though it has become a little faded by our collective inability to bring out new products and services in the last 18 years. In spite of the huge proliferation of RTAs, some 70% of all international trade takes place under MFN rates, not preferential rates – and that figure includes all intra-EU trade. In terms of world trade flows, the WTO is hardly ‘marginalised’.

Second, we have in our dispute settlement system a mechanism of global importance – it is as much of political importance as commercial. By channelling often bitter disputes into an impartial judicial system, serviced by Secretariat professionals of outstanding ability, it prevents trade disputes from spiralling out of control and infecting bilateral political relationships of great strategic importance. It is responsible for ensuring respect for the rules-based multilateral trading system that is the *acquis* of the last eight successful multilateral negotiating rounds, ending 18 years ago with the conclusion of the Uruguay Round. However, with every passing year, I get a little more nervous saying that. Why? Because finally I cannot imagine that the high respect for the system will forever be intact if we are stuck permanently at the high-water mark of 1994. The most dangerous words we can ever hear – and I have heard them, though they remain a minority view – are ‘who cares these days about the WTO?’ (or words to that effect).

Third, it is clear at least to experts that the WTO is indispensable on certain core trade-policy issues that are unlikely to be resolvable through RTAs. With some minor exceptions, no RTA can replace reliance on the WTO disciplines around contingency protection (CVD, Anti-Dump, a multilateral safeguards regime). Subsidies peaks distort – sometimes massively – international trade flows, the most egregious being in trade and production distorting agriculture subsidies. What is even more frustrating is that the major users of these subsidies have signalled pretty clearly that very large cuts

in non-Green Box subsidies are doable in the context of a balanced and comprehensive outcome to the Doha Round.

Up to now, I have maintained that these subsidies can be reduced only within the framework of the WTO, not RTAs. The new EU/US negotiations may yet test that political judgement – it is certainly the only RTA that has ever emerged with the potential to do so. However, EU and US negotiators, and more particularly their political masters, would still have to swallow a very large rat in the form of the considerable free-rider problem that a purely bilateral subsidy deal would create.

Finally, and perhaps most important of all, the multilateral rules-based system, underwritten by the WTO, provides coherence amongst all these RTAs. I liken the RTAs to large and small vessels floating on the relatively benign sea that is the multilateral rules-based system underwritten by the WTO. The discrimination that is built in to every RTA, and which caused so many distinguished trade-policy thinkers in the past to oppose preferential agreements and any weakening of the MFN principle, is still there. Discrimination is finally an implied quantitative problem; it is not whether it exists or not, it is the amount of discrimination that matters.

Paradoxically however, the rise in the prominence of the global value chain magnifies, not diminishes, the problem. We now know that even relatively small tariffs (or differences in tariff treatment arising from RTAs) can have quite large impacts, as the effects of even modest differences in tariffs are compounded in intermediate trade channels that are the lifeblood of the global value chain. To take an example in one sector of world trade, namely agriculture – vital to my country and since many developing countries, since they have similar export structures to New Zealand – we are hardly talking about small tariffs. Average bound agriculture tariffs worldwide are above 40%. This is a huge and unresolved problem.

Even worse, tariff escalation compounds the problem of most countries which are competitive at the upstream end of the global value chain wishing to add value further downstream. To use a practical example, not every country is forever content to export

raw logs simply because they face increasingly steep trade barriers the higher up the processing chain one goes.

### **Exiting the impasse: Some reflections**

To state a problem is one thing; to find durable solutions is another. The more experience I have had in negotiating trade - and other - agreements in the last 30 years, the more I fear is wishful thinking.

Wishful thinking does not observe the law of scarcity in economics. The only thing we can say in our defence is that the WTO is far from alone: there is a huge hunger in domestic and other international political theatres for easy solutions to highly complicated problems. In the WTO, it manifests itself around a gravely misplaced view about the importance of 'roadmaps', 'timetables' and new Green Room metaphors to describe re-jigged procedures.

As a politician, I understand the need for good procedure – bad procedure vastly complicates finding sophisticated solutions. I also understand the need in domestic and international politics for 'bumper stickers'. To sell a policy direction, all politicians, domestic and international, need to reduce policy complexity to a simple proposition (the 'bumper sticker') and then get out and sell the idea to stakeholders. But there has to be political substance behind the latest Geneva *mot du jour*, or it will melt away more rapidly than an ice cream on a warm Geneva summer's day.

Let me be clear on the central point. I can see a number of more (or less) promising directions - starting with making Bali a success. But I can see no single 'plan' that might let us redevelop momentum to complete the whole agenda of the Doha Development Round. Indeed, as I have discussed the way forward with numerous Ministers and Ambassadors, I have suggested that if any candidate for the position of Director-General claims he or she knows how to fix the problem, it is certain proof they do not understand the problem.

Above all, this is not an intellectual problem. It is a political problem we have to solve. A new Director-General could certainly devise a plausible ‘balanced outcome’ to the Doha Development Round. Country A would show more flexibility on issue Y; Country B would then reciprocate by offering more access in this or that dossier of agriculture, services or NAMA. Upgraded trade-related assistance targeted at this or that group of countries in this or that sector would facilitate a consensus on issue X ... and so on.

It would be elegant, done well. It would also be completely irrelevant because it would lack the ownership of the membership.

From shared political ownership flows a shared commitment to sell politically the compromises that must be made if we are ever to move forward again in the WTO. Alexander Hamilton, the first US Secretary of the Treasury and the person most credited with the formidably difficult task of getting a consensus around the US Constitution, famously observed that “men will often oppose a thing, simply because they have had no hand in its making”. Only a deal that has been built up by the membership will be politically supported by the membership.

A careful study of how past blockages have been removed in the GATT and the WTO reveals certain ‘tendencies’ – I would stop short of describing them as ‘lessons’ since every situation has its own particular characteristics. One is entirely outside the control of the Director-General; on the other, the Director-General has some influence.

The first is about the powerful influence of broader political events that have almost nothing to do with the WTO negotiating process but which shape its chances of success. We are not negotiating in a political vacuum. Broader international developments both create and destroy political opportunities to advance the multilateral agenda. It is partly around timing – the sequencing of major political elections - but in reality is far larger and more inchoate than the usual attempts to ‘plot’ a timetable around the international electoral cycle.

The Ministerial meeting at Seattle failed to launch the Round – I still have an umbrella with the words ‘The Seattle Round’ emblazoned on it. The broader political environment was not conducive to launching negotiations. I spent most of my time in Seattle speaking to demonstrators, not negotiators. The meeting in Doha some two years later was convened against an atmosphere of grave concern about the implications of 9/11 and a collective determination to show that international cooperation was still alive. The Uruguay Round, meant to finish in Brussels in 1990, meandered on until a range of broader political events – none of which had much or anything to do with the intrinsic negotiation problems in Geneva – provided the catalyst.

Clearly the Director-General has no influence whatsoever on these broader exogenous developments. But she or he must have an acute political nose to smell ‘une ouverture’ – literally ‘an opening’ in English, as the great EU Ambassador and negotiator Paul Tran used to call negotiating windows of opportunity. Some people have that refined political nose and know how to capitalise on an opening; others will power ahead with attempts to ‘re-ignite’ negotiations, ignoring the broader political atmospheric conditions. It is as ill-advised as setting out on a small yacht without favourable wind and sea forecast conditions.

The second persistent tendency I see from my analysis of past blockages is very much under the control of the Director-General. It is about building convergence, and ultimately consensus. It starts with the Director-General (or indeed any Chair or facilitator) having a high degree of confidence amongst the membership, large and small, and a demonstrated capacity to listen, learn, and quietly suggest pathways. Every negotiation in which I have had some responsibility for facilitating worked in that way. Certainly, when a facilitator senses (through the direct and indirect signals any good facilitator seeks out) that there is sufficient support, then they have to demonstrate a single-mindedness to push it through. But no Chair’s text is stronger than the political consensus underlying it.

This is one reason why I have consistently said that a Director-General should be a strong public advocate of the WTO system on general grounds and completely silent in public on sensitive negotiating issues.

I believe that in life, not just trade negotiations, nothing useful or worthwhile can be established without discretion. The Director-General is not a decision maker (aside from his or her formal responsibilities for the Secretariat). The Director-General, unlike the heads of many other institutions, does not have large amounts of money and other resources to use as leverage to advance the objectives of the Institution. It is an extremely difficult job to do well. The Director-General must be able to play in both arenas – the political and the negotiating arenas. One without the other will never be sufficient. He or she needs to demonstrate to the membership a lot of skill and experience. I would have thought that a demonstrated track record of putting their country's negotiating position on the political back shelf and producing negotiated results would not be a bad place to start looking in any search for a Director-General.

Finally, let us admit it – the new Director-General will also need his or her share of luck, while remembering the old saying that good poker players always make their own luck.

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# Strengthening the WTO

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## **Ahmad Thougan Hindawi**

Chairman and CEO, Hindawi Excellence Group; former Minister of Industry and Trade of Jordan

When I started writing this essay I reflected on where we are coming from in terms of the profoundly changing global economic environment, the successes and failures of the past; where we are standing right now – wavering between optimism and pessimism – and most importantly, where we are heading in the future – the challenges and opportunities that lie ahead, our global common objectives, and how to go about achieving them. As these thoughts were going through my mind, I could not but think of Charles Dickens in *A Tale of Two Cities* when he said:

It was the best of times, it was the worst of times, it was the age of wisdom, it was the age of foolishness, it was the epoch of belief, it was the epoch of incredulity, it was the season of Light, it was the season of Darkness, it was the spring of hope, it was the winter of despair, we had everything before us, we had nothing before us, we were all going direct to Heaven, we were all going direct the other way ...

These simple words summed up my thought process. At the end of the day, it is all about ‘choice’ and ‘commitment’. It is our choice, our collective choice, whether we genuinely believe in and want to strengthen and progress the cause of globalisation and free trade; and if so, our commitment, our collective commitment, to do whatever is necessary and needed to achieve this noble goal.

We all know that world trade has gone through tremendous and profound changes over the past decades. The huge advances in the ICT sector, the spread of multinationals with their globally integrated production lines shifting the concept of competition from one between countries to one between value chains and the emergence of numerous

regional and bilateral agreements all contributed to world trade. A recent World Bank report estimated that world exports in 2011 were approximately 40% higher than in 2001, in spite of the financial crises, and approximately 150% higher than in 1995. Manufacturing products' exports grew exponentially, raw material exports grew steadily, while agriculture exports have been largely static.

The WTO was born during these dynamic and vibrant years with a clear mandate to “be the international organisation whose primary purpose is to open trade for the benefit of all.” The core fundamental values of nondiscrimination, fairness, transparency, and predictability were sustained from its predecessor, the GATT. Yet the WTO was different in many ways.

The ‘expanded scope’ provided a mandate to address new issues that were not addressed in GATT, including services and IPRs. The ‘single undertaking’ principle led to integrating the majority of developing countries more fully into the multilateral trading system. The Dispute Settlement Mechanism (DSM) of the WTO was another major improvement over the GATT system, which suffered from overly long delays, the ability of disputants to block consensus, and difficulty in securing compliance with panel rulings. All that changed with the WTO, with dispute settlement operating under strict time limits, no veto to power, a new Appellate Body and a procedure to promote timely compliance through monitoring compliance actions and allowing for proportionate retaliation in case of non-compliance. The institutional structure is another major difference. Where GATT was a trade accord serviced by a secretariat, the WTO is an organisation with a clear mandate and structure, greater legal coherence, biennial ministerial meetings which allow political leaders to provide useful direction to the work of the WTO. All that in addition to the significantly higher number of signatories: while GATT started with only 23 members, the WTO now has 159 members.

The WTO has been successful in large extent. Most of what was agreed to during the Uruguay Round has been implemented. The overall positive impact on the global economy in terms of worldwide reduction of tariff and nontariff barriers and the multi-

fold increase in global trade has been profound. The road was long and full of bumps, many of which still exist today, but the WTO was able to overcome the majority of these obstacles.

The two key challenges that I foresee looking forward are: (1) the Doha Round; and (2) internal reform.

### **The Doha Round: Challenge and opportunity**

The Doha Round was launched in 2001 with a core objective of improving the trade prospects of developing countries. Analysts and critics have used several terms to describe the state of the round, including ‘deadlock’, ‘gridlock’, ‘impasse’, ‘stalemate’, ‘undoable’, ‘collapsed’ and even ‘limbo’. Some have even pronounced it ‘dead’, calling for ‘a dignified burial’. I do not subscribe to any of these descriptions and conclusions. The Doha Round is a multilateral trade negotiating process that covers a wide range of issues and that has its highs and lows. Sometimes going faster or slower than other times is natural and should be expected. After all, the Kennedy and Tokyo Rounds, which involved a significantly fewer number of countries and issues, took years of negotiations. The Uruguay Round, with 133 countries, lasted eight years. So, looking at this historical benchmark, one cannot but wonder whether it was realistic to expect that the Doha Round, with its expanded scope and membership, would be concluded in four years. When difficult to achieve targets are set, frustration and disappointment can easily follow. This does not mean in any way that the process is dead. I fully subscribe to Mr Lamy’s conclusion in a 2010 statement when he said: “The only thing that is surprising in the Doha Round is that anyone is surprised”.

The cost of a failed round is so large that no country, whether developed or developing, can afford it. A failure will lead to complete loss of credibility and confidence in WTO as a whole, hence severely impeding its ability to make progress with any new multilateral trade rounds in the future. Moreover it will undermine the organisation’s legitimacy and relevance and hence its ability to maintain its ability to provide its other

core functions effectively, including dispute settlement and trade policy review. The world cannot afford such detrimental results.

## **Reform areas**

The second priority challenge/opportunity that the WTO faces is its ability to change and to reform itself to be able to effectively and efficiently meet the future challenges that lie ahead. There is a wise saying to which I subscribe: “If you do not change.... You will change.”

There are five broad reform areas: (1) WTO key functions; (2) WTO support functions; (3) WTO governance and structure; (4) key principles and approaches, including the Single undertaking and consensus voting; and (5) interaction with stakeholders.

## **Key functions**

- The dispute-settlement mechanism

All agree that the establishment of this highly respected system enables members to resolve trade disputes in a fair, predictable and relatively rapid manner. It has been highly successful in fulfilling its main functions of fostering the resolution of trade disputes. The regular use of the system by both developed and developing countries gives a strong indication of their confidence in a dispute-settlement mechanism that many consider to be a role model for the peaceful resolution of disputes in other areas of international political or economic relations. Some challenges that confront this highly successful system relate to the ability of the Secretariat to provide technical assistance to developing countries enabling them to fully understand and utilise the mechanism. The Secretariat’s ability to satisfy this mandate is limited due to scarcity of resources.

- The trade-policy review mechanism, notifications and surveillance

The trade-policy review (TPR) mechanism is a core aspect of fulfilling the WTO’s mission and objectives. Over the years, it has proved to be highly successful. The

Secretariat's work in providing a listing of notification requirements and information on members' compliance on semi-annual bases, supported by an annual report by the DG is invaluable. A core task of paramount importance for the WTO is to be able to generate, compile and publish such information and data. Strengthening this function in addition to strengthening WTO's cooperation with other international organisations such as the World Bank, UNCTAD, and ITC in this respect is of high importance.

- Building capacity for developing countries

This is an issue of great importance and concern to the majority of members of the WTO. The overwhelming majority of developing countries have made a strong and unwavering commitment to liberalise their economies. Yet many of them still lack the necessary knowledge tools that can allow them to make this integration a successful one that will have a noticeable positive impact on global trade. The WTO has been successful in organising numerous technical cooperation missions to member countries as well as courses for government officials at Geneva every year. These efforts are widely recognised and appreciated. A major initiative to support these capacity building efforts has been the 'Aid for Trade' programme. A key challenge for the future will be to seek continued and sustained funding through highlighting its importance and impact on world trade. I believe that such a challenge should be on the high priority list of WTO members in the future.

Some propose spinning off that component into a separate entity in order to enhance the effectiveness and efficiency of WTO's technical assistance functions. Such a suggestion can be considered by the General Council in the future in consultations with WTO's key stakeholders in parallel with sustaining and strengthening the Aid for Trade programme.

- Accession process

It is of profound importance to have one rule to govern the accession process. Having more than one standard can have a detrimental impact on the credibility of the system. At the same time there are many who perceive the accession process as being too long and over complicated. In a time when we are steadily moving toward universal membership

in the multilateral trading system and the focus is on supporting developing countries' globalisation efforts, it would be conducive for members to think of innovative ways to streamline the accession process without compromising its effectiveness or credibility.

#### WTO support functions: Institutionalising the institution

In the 21st century, no organisation can and should operate without a well-defined corporate vision, identity and culture and without adopting management practices in accordance with international best practice. Some argue that because the WTO is so unique in so many ways in terms of the nature of the organisations, its mandate, global reach and impact, and functions this justifies not having such as corporate identity and culture and adopting such managerial practices.

While I fully concur that the WTO is unique, this cannot justify or prohibit the organisation from implanting and institutionalising a proper corporate culture, and developing and implementing management systems that will improve the organisation's performance. To would entail action on a number of fronts, including the following:

1. Development of a comprehensive strategic plan for the organisation that contains proper and well-defined vision and mission statements, core values, long and short term strategic and operational SMART objectives and KPIs and action plans to be accurately and sustainably implemented.
2. A comprehensive and integrated organisational performance evaluation and assessment system. Such a system could be based on monitoring the achievement of the organisation's strategic and operational KPIs in addition to stakeholders' perceptions, including members, business community, partners, employees, and the public at large.
3. A comprehensive human-resource management and development system that will ensure that the most capable staff is recruited and retained. This involves developing and implementing a strategic HR plan and systems that covers HR planning, recruitment, career paths, performance evaluation, training and capacity building,

salary structure, financial and nonfinancial incentive schemes, and internal communications.

4. Systems, processes, procedures and templates documentation in accordance with international standards.
5. Strengthening the WTO's ICT capability to serve the members in the most effective and efficient manner. There are countries who are WTO members but do not have representatives in Geneva. There are some who are not able to attend the important meetings of the different Council's, boards, committees, and groups. Some even miss on the General Council and Trade Negotiations Committee. This issue can be resolved by enhancing and strengthening the organisation's ICT capabilities to enable them to participate through video conferencing in the most effective and cost efficient manner.
6. The budget of the organisation, as is its manpower, is among the lowest of similar international organisations. The issue of WTO's budget is always a highly sensitive one involving the distribution of obligations and rights. Nevertheless, member countries must always keep in mind that the WTO is a crucial instrument for managing an increasingly globalised economy, hence the minuscule share of national budgets that is allocated to the WTO produces benefits that far outweigh the cost of investment. This high return on investment should be reflected in appropriate annual increases in the budget accompanied with measures to enhance internal effectiveness and efficiency of the organisation's performance.
7. Finally, improvement is a continuous and never ending process. There are significant opportunities to obtain suggestions and feedback from internal councils, committees, delegations, Secretariat staff as well as external partner organisations, academics, civil society, the business community, and the public at large. There is no structured and institutionalised system for capturing suggestions in a timely and continuous manner, analysing and studying them, and putting them forward to the General Council and Ministerial meetings for possible action and decision. This is

in my opinion one of the most important internal systems to be developed and implemented as it will insure the continuous evolution of our organisation.

## **WTO governance and structure**

Given the ‘member-driven’ nature of the organisation, I believe the question should be asked how to enhance DG’s and Secretariat effectiveness to enable them to assume their fair, neutral, and transparent honest broker role and serve the members more effectively. Article VI (2) of the Marrakesh agreement calls on the ministerial conference to “adopt regulations setting out powers, duties, condition of service and term of office for the DG”, a thing which has yet to not be done. Some critics argue that due to the uniqueness and sensitivity of the organisation, a DG does not need a Job Description. I do not concur with this argument. Yes, the DG has to have the necessary competencies and capabilities to lead and manage the organisation, but that does not warrant or justify not having a job description, a thing that will negatively impact the long term interest of the institution and its members.

The same arguments apply to the WTO Secretariat: Approximately 600 highly skilled and qualified staff that are completely devoted to WTO’s mission and are well respected by all. Yet, they are spread extremely thinly among the organisation’s functions: administering and servicing the agreements and standing committees, dispute settlement, supporting negotiation groups, trade policy review, Appellate Body, Economic Research and Statistics Division, administration and finance... etc. The Secretariat comprises the institutional memory for the organisation. They provide valuable advice to delegates, business groups, NGOs, etc. and they represent the organisation to the outside world. Some argue that a ‘member-driven organisation’ warrants a passive role for the Secretariat, with its role limited to support and not take initiative. I do not concur with this point of view. Yes, the Secretariat has a duty of absolute neutrality with respect to rights and obligations of members, and it may not take decisions or actions in a manner that prejudices those rights and obligations. However, I believe that a more passive and timid role will lead to losing effectiveness and efficiency on the longer

term, hence impeding the Secretariat's ability to service its members who will be the principle losers of such an approach.

A 'member driven' organisation means to me that the Secretariat should be proactive in accurately and sustainably identifying members' needs, requirements, and aspirations and proactively taking all actions necessary to meet those needs. The DG and Secretariat should be proactive in promoting and praising the multilateral trading system and its benefits to all stakeholders through all means available (speeches, publications, presentations, outreach to the business community and NGOs, etc.). They should be proactive in monitoring trade policy developments, alerting members to protectionist trends; similar to what was done during the 2008 financial crisis.

Turning to the number of DG deputies, it has been customary to appoint 4 deputies, which allows for some geographic balance. Some argue that this is too much and that in a 'member driven' organisation with a passive Secretariat, one deputy DG is sufficient and will contribute to cutting costs. I see merits in maintaining three deputies, one of whom is the most senior, a CEO-equivalent who would run the Secretariat and chair respective committees, and who would come be from a developing country if the DG is from a developed nation and vice versa. The other two deputies would lead the technical assistance function and engage with stakeholders and lead the WTO information dissemination function, which I believe of high importance.

Overall, I strongly believe that a comprehensive review of the DG and Secretariat roles and functions should take place by the General Council based on members' needs, requirements, and aspirations with the sole objective of enhancing their effectiveness and efficiency and empower them to perform their tasks with great competence.

There are other ideas that the General Council may consider in the future, including stimulating the 'Consultative Council' as an advisory council with members representing different stakeholders. Also the frequency of ministerial meetings to be yearly instead of every two years especially in light of the political challenges that current negotiations are going through. The same logic is also driving suggestions to conduct 'Economic

Summits' for world leaders every two years. This will have a positive impact in setting a clear vision for the future of multilateralism, solve political differences relating to distribution of rights and obligations, and hence help restore confidence in the system and convey a positive message to external stakeholders. The number and role of the DDGs can also be discussed by the General Council to enhance effectiveness and efficiency as well as put emphasis on areas of importance like technical assistance to developing countries and stakeholder engagement.

## **Key principles and approaches**

- The Single Undertaking

The 'Single Undertaking' principle was one of the major and noticeable differences and improvements over the 'a la carte' practices of GATT. One of the core objectives of the unique 'take it all, or leave it all' approach has been to incentivise, stimulate, accelerate, and deepen developing countries' trade-liberalisation efforts and integration with world economy, and so it did. Another key benefit is that it allowed for a win-win-win situation whereby everybody gets a piece of the pie whether developed, emerging or developing and least developed. Market access, implementation, and development issues can be negotiated in a comprehensive, integrated and linked manner. Some sceptics of the Single Undertaking approach are arguing that the principle is complicating the process given 159 members and the numerous issues on the table to be negotiated. A genuine and honest debate has to be sustained among members on this core and fundamental issue keeping focus on the long term impact of the adopted approach on the wellbeing of global trade liberalisation.

- Consensus

The 'Consensus' principle has a long history in GATT. I fully appreciate the objective and benefits of such a principle. First, it ensures full ownership of the members of the issues being discussed and negotiated, hence there can be no future excuse or justification for lack of compliance. Moreover, the principle prevents the interests of the 'few', whether

‘weak’ or ‘strong’, to be steamrollered by those of the ‘many’, hence it is an added fairness safeguard measure. DG Pascal Lamy has noted that there is “consensus about consensus”. Some argue that the concept of ‘veto power’, whether put in the hands of the few, the many, or in the hands of all is an undemocratic practice. It may have a negative impact on the effectiveness and efficiency of the system. The key question here is whether there a system that will allow a higher degree of effectiveness and efficiency yet allows for flexibility and the interests of the few to be recognised, appreciated and preserved. This is an important issue for the General Council to consider.

### **WTO interaction with external stakeholders**

Proactive and continued engagement with all stakeholders is of paramount importance to enhance transparency and spread the WTO’s message to the world especially the part dealing with ‘to the benefit for all’, hence filling the communication gap with clear and positive messages. Member countries have a huge responsibility in this respect. However that does not negate the fact that the WTO itself has to be more proactive in its engagement and more vocal in spreading the message. The WTO DG and Secretariat have to intensify their efforts with the media and with member countries to launch national and regional awareness campaigns about the WTO. Other proposed suggestions which may be considered by the General Council include: (i) opening up the WTO’s General Council for more representation by stakeholders; (ii) publishing WTO agreements in ‘User Friendly’ language for the business community and the public at large; (iii) establishing suggestions and complaints-management systems and satisfaction-assessment systems to allow the WTO to receive, analyse and effectively and promptly respond to them; (iv) strengthening linkages to higher education institutions to develop and deliver trade-liberalisation courses and extend outreach educational programmes to the private sector; (v) strengthening cooperation with other international organisations (World Bank, UNCTAD, ITC, etc.) especially with respect to research and providing technical assistance to developing and least developing countries.

## **Conclusion**

There has been much debate on whether the top WTO position should rotate between developed and developing countries, or whether we should decide on the basis of the merits, capabilities, competencies, and qualifications of candidates. Looking at the distinguished panel of nominees, it is clear to me that there need be no contradiction between the two approaches. A WTO Director-General from a developing country, who is highly capable and competent by virtue of his or her education and past experience, can lead the organisation effectively during the coming years.

What I would bring to the WTO if I were selected? I would bring two attributes, one relating to my country, Jordan and what it represents, the other relating to my own personal merits. With respect to the first factor, Jordan has always been an honest and fair broker among contending parties, acting as a bridge between the east and the west, the south and the north. I will bring with me my country's heritage as well as the recent experience of its modernisation and an appreciation for the needs of developing countries.

As for my own personal merits, I have an unwavering conviction and commitment to the cause of trade liberalisation and a proven track record of senior positions in the government of Jordan devoted to trade liberalisation, including as one of the key negotiators of Jordan's WTO accession as well as numerous FTAs. In addition, I have close to a decade of robust private-sector leadership experience working as CEO of a regional management consultancy firm that I am proud to have established. I will bring the fresh perspective of someone who was not part of – or directly involved – in the system in recent years, but is fully aware of its particularities from previous experience. I believe in what this great institution stands for, and would be an impartial, fair, honest broker and partner for all, working hard to understand all views, increase alignment, narrow the gaps and, most importantly, continue to move forward.

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# Building a new trade consensus

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## **Alan Kyerematen**

Head of the African Trade Policy Centre (ATPC) and is a former Minister of Trade and Industry of Ghana

The WTO has made a substantial contribution to the expansion of the global economy in recent years, but it is clear that it needs new energy. The current stalemate in the Doha negotiations threatens to weaken and undermine the functioning of the system as a whole. Persistent failure to agree on a significant number of negotiating issues has eroded the confidence of members in the organisation. Governments and stakeholders are increasingly looking elsewhere. Furthermore, some of the existing agreements are not keeping pace with changing realities, with the risk that over time they will lose relevance and respect.

The most important requirement to break this logjam is to rebuild trust and confidence among the entire membership and to reconcile their differences. This will depend significantly on the new leadership that will be installed within the next few months, and the new vision that leadership will bring to the WTO. This should not only consolidate the excellent work done by previous Directors-General under very challenging circumstances, but also make the WTO more responsive to changes in global dynamics, while living up to its commitment to make trade a catalyst for development and wealth creation.

To revitalise the WTO, we need a New Trade Consensus agreed among all WTO members: a grand bargain built on a comprehensive, coherent and dynamic approach to the full range of issues and the interests of all members. This should essentially be anchored on three pillars:

First, securing a set of concrete but realistic outcomes for the Bali Ministerial Conference, in line with the guidance from the Eighth Ministerial Conference and based on specific negotiating issues around which there are indications of convergence amongst members, such as Trade Facilitation, to be considered for adoption as an ‘early harvest’ under paragraph 47 of the Doha Declaration during the Ninth Ministerial Conference in Bali.

Second, defining a post-Bali agenda which would include a strategic roadmap, and an indication of substantive areas of convergence on issues, among members. This would be the basis for concluding the Doha Round, with particular emphasis on development content. In this regard issues relating to agriculture in general, and the cotton issue in particular, remain critically important not only to the negotiations, but also to the lives of millions of people in the developing world.

Third, charting the future direction of the multilateral trading system in a broad and open-minded way which would include a consideration of emerging trade-related issues based on new global dynamics. This will involve, among other things, an analysis of changes in global production and distribution processes, including but not limited to global value chains; changes in consumer patterns and purchasing power in selected markets particularly with the expansion of the middle class, and also in response to ‘value for money’ considerations; the emergence of new trading powers and its impact on global economic governance; the financial and economic crises with rising unemployment in more established markets; and finally the deepening of poverty in many poor countries, as well as the continued vulnerability of a number of small economies to external shocks of different kinds.

In responding to these changes in global dynamics, it should be possible to explore new negotiating approaches without abdicating responsibility for delivering on our agreed agenda under the Doha round. As we conclude these negotiations, we should be opening up other perspectives. The WTO should not be tied forever to ‘One Big Round’ or always to ‘hard law’ solutions. Where possible, the WTO should be able

to advance on agreements in individual areas as was done 15 years ago in financial services and basic telecoms; it should have enough confidence to be able to consider plurilateral agreements on their merits as long as the basic multilateral framework of non-discrimination is respected; it should be able to allow those members who want to go further or faster to do so, provided that the results are in the common interest and ultimately of benefit to all; and it should be able to consider non-binding or ‘soft law’ agreements where these could help build confidence as a basis for something more solid. In this and in other ways, we should not hesitate to learn from the best practices of other trade forums such as APEC.

In addition to enhancing the negotiating agenda of the WTO, the New Trade Consensus will also involve taking concrete measures to improve the functioning of the dispute-settlement system, advancing accession processes in the interests of the system as a whole and enhancing the effectiveness of the oversight and monitoring responsibilities of the WTO.

If WTO members are to succeed in forging this New Trade Consensus, they will need to focus their work on the following five strategic drivers:

First, it is essential to rebuild a solid political consensus amongst members, based on the core values of the WTO as an institution. This will mean focusing on the things that unite the membership, not those that divide them. A solid political consensus should allow the membership to approach decision-making in a flexible and inclusive manner.

Second, it should be borne in mind that the WTO belongs to all its members, whose individual interests are important and must be taken into account in the decision-making process.

Third, the WTO must reach out more actively to business, civil society and other stakeholders. It should be recognised that trade is part of a much bigger economic, political and social reality. In this regard, it would be worthwhile considering the

convening of a regular Global Trade Summit, in collaboration with other relevant international organisations, which would bring all stakeholders together.

Fourth, there should be a renewed recognition that fostering growth and development is fundamental to the mission of the WTO. In addition to the current regime of trade preferences as well as special and differential treatment provisions for developing countries, there is the need to introduce a more robust, dynamic and responsive approach to the deep challenges of development. Its elements should include the following:

- Improving market access, including through the removal of tariff peaks, tariff escalation and other non-tariff barriers. This is crucial to enabling developing countries to participate more fully in global value chains.
- Improving access to trade finance for developing countries.
- Giving particular priority to the needs of LDCs. My region, west Africa, is home to some of the poorest LDCs. Trade alone is not the answer to their problems but it is a vital part of the answer.
- Strengthening public-private partnerships in order to create an enabling environment for trade and investment to flourish. This is a field in which I have experience as a minister and as a business executive, and I know the difference well targeted partnerships can make.
- Maintaining and improving capacity-building efforts such as Aid for Trade and the Enhanced Integrated Framework for LDCs. There is no one-size-fits-all solution. The challenges faced by small and vulnerable economies, for example, require tailor-made solutions.
- Adopting national policies that create an enabling environment for trade and investment. There is also a need for coherence between trade policies and other policies, such as macroeconomic, fiscal, agricultural and social policies.

Fifth, the WTO needs to manage the relationship between multilateralism and regionalism in ways that allow trade to benefit from both. The proliferation of preferential trade agreements must be seen in part as a response to the lack of progress in the WTO,

though there are also obviously other dimensions to the desire for deeper integration. The debate is not about whether these agreements are good or bad. However, we would all accept, I think, that multiple overlapping agreements risk adding complexity and costs to trade. They also risk excluding the poorest. One obvious way for the WTO to reduce these risks is to accelerate its own market-opening and rule-making efforts. Another is to multilateralise the results of preferential trade deals. As Director-General I would give a high priority to working along both these tracks.

To sum up, the WTO needs a renewed sense of purpose around which the membership can unite. It needs to reassert in practice the vital contribution of trade to growth, development, and employment. A WTO in touch with its core commitments to equity, openness and dialogue can break the current logjam and reinvigorate the rules-based multilateral trading system so that it can contribute to the alleviation of poverty and strengthen the global economy for the benefit of all. My proposals for a New Trade Consensus can help take the membership there and I hope to have the chance to work on making them a reality.

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# Consolidation and adaptation to new challenges

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## **Amina Mohamed**

Deputy Executive Director of the United National Environment Programme (UNEP) and UN Assistant Secretary-General

The rules-based multilateral trading system has developed over the last 65 years. From a treaty between just 23 countries without any formal institutional structure, it has evolved into the WTO, with 159 members and counting. The WTO is now in its 18th year of operation. In many ways it has been a very successful organisation. But the difficulties that have confronted efforts by members to conclude the Doha Development Agenda make clear that all is not well.

At this stage in its history, the WTO is faced with four key questions:

- What is the state-of-health of the organisation?
- What lessons have we learned since 2001?
- What challenges confront the organisation?
- Going forward, what should the vision be to strengthen an organisation that is member-driven?

## **The WTO is fundamentally healthy**

As a former Chairperson of the General Council, I am convinced that the Multilateral Trading System is structurally sound and in good shape. Work in the many regular bodies of the organisation is proceeding efficiently. It does not attract much attention but it is one illustration of the value-added that is generated by the organisation to its members. I am convinced that the Dispute Settlement Understanding (DSU) is the most effective intergovernmental mechanism that currently exists in public international law. The WTO remains the sole and undisputed guardian of the rules-based trading

system. We have a technically competent and professional Secretariat. The WTO is an indispensable organisation for rule-setting, implementation and adjudication of disputes. If it did not exist, we would have to create it.

Although handicapped by deadlock in multilateral trade negotiations, the WTO is credible. Trade is an engine of global recovery, growth and development. The WTO's rules and mechanisms continue to provide stability and predictability in global trade governance. The WTO has kept markets open and maintained a transparent, rules-based approach to international trade in a rapidly changing world, even in times of crisis and uncertainty. Since the on-set of the global economic and financial crisis in 2008, WTO Monitoring reports have provided transparency that has helped keep protectionism at bay.

The membership of the organisation has expanded since 2001 and with the recent work done on accessions, the rule of law has been extended to cover 97% of global trade. This is an area of recent good news for the system. Importantly, accession negotiations are as difficult as any in the system and they are fundamentally member-driven. The fact that we have seen so many countries go through the process and commit to difficult reforms in order to accede is testimony to the benefits that are seen to come with membership.

No one can imagine the absence of the WTO in global economic governance. Directors-General work to ensure the consolidation and preservation of the current acquis of the rules-based Multilateral Trading System, including its procedures and practices. It is of high value. It must be protected from constant assault and the contagion of protectionism, from pressures for it to go beyond its proper remit, and from negative critics.

### **Lessons from the post-2001 experience**

Since the WTO came into existence on January 1, 1995, the world has changed a lot. We are now confronted with the mega-global challenges of climate change, a monstrous

economic and financial crisis that is accompanied by the ‘terror of unemployment’, increasing food insecurity and a crippling global angst of what the future holds. We are in a race against time. Although some regions of the world have done better than others, and emerging developing countries are playing a greater role as engines powering global recovery and growth, these efforts should be on the platform of multilateralism. The world is not de-coupled. We have a global economy, of which one consequence is that economic and trade pain, in one part, is almost immediately transferred to other parts. The illusion of a de-coupled global economy must be banished.

All institutions, periodically, need to reset and adjust to the challenges of an ever-changing global environment. One of the greatest lessons from the English naturalist Charles Darwin is that it is not the strongest of the species that survive, but those that are able to adapt to their environment. The lesson from the failure of the League of Nations is within human recall. Institutions that are not relevant, cannot solve problems, and that are behind the curve are superseded. Adaptations, adjustments and technical improvements are required even in an organisation like the WTO that is fundamentally in good health.

Although the organisation continues to score highly as the guardian of the rules, through regular work, and has provided stability in global trade, including through its accumulating solid jurisprudence, weaknesses are self-evident in two areas: (i) negotiating new trade rules to update the rule book; and (ii) in providing new market access opportunities. While new market-access opportunities have been created from the exceptionally successful results of a well-functioning WTO accession process, including the accession of the Russian Federation in 2011 and many others, these need to be complemented by multilateral negotiations that further improve on existing market access opportunities.

The weaknesses in WTO leadership in new rule-making and multilaterally driven market opening are far from fatal. The responsibility for the lack of progress is collective. In

these two areas the WTO needs to adapt and upgrade to ensure it maintains its relevance and capacity to respond to contemporary challenges.

The WTO now has 159 members and the organisation is still growing. The membership is very diverse, with different levels of trade, human and economic development. I am convinced that one lesson of the past decade is that more flexible negotiating approaches and modalities may be required. We have to change the method of negotiation in light of the size and diversity of today's WTO membership. The political guidance by ministers during the MC8 provides some basis on how to address some of the issues.

Beyond that, it is crystal clear that going forward, negotiations have to become more responsive to the current global trading environment and realities. The challenges of economic crises, the proliferation of RTAs, and increasing food insecurity need attention.

As discussed below, we need to move inclusively and rapidly to conclude trade facilitation negotiations; support the conclusion of a new Services Agreement; and better engage the private sector and global business.

## **Challenges**

The WTO faces a number of challenges that manifest in different forms. They include the following:

- The DDA – how do we approach these negotiations after almost 12 years of effort and what areas should we look to harvest?
- Trade facilitation (and more generally the non-trade barrier agenda)
- Trade in services
- The proliferation of regional trade agreements
- Defining the contributions of a rules-based system to development goals and priorities

- Climate change; and
- Food security

## **The DDA and Future Negotiations**

In 2001 in Doha, we launched a comprehensive Trade Round, with the overall framework of the negotiations focused on development priorities. Nothing that all-encompassing had ever been contemplated. We have been hard at work on the Doha Round for 12 years. Where are we? What have we learnt? Many have taken positions on Doha. Some consider that we collectively overreached. Others think that the pursuit of development objectives is incompatible with a rules-based system that reflects a negotiated balance of rights and obligations. There is considerable hindsight wisdom. In my view the jury is still out. In all such massive undertakings, where the issues and questions are complex and the situation is in flux, there must be no rush to judgment, or finger pointing.

Some consider the Doha Round in abeyance, others deadlocked and others that it has failed. Factually, what has been obvious for long is that negotiations on the overall agenda are stuck. We cannot go backwards and we cannot move forward, unless we come to practical terms regarding where we are on the negotiations. This is the moment to do so.

The Doha Round is still relevant. However it is time to restructure and update some parts. To re-focus it to support recovery and growth, targeting issues that can contribute to rapid growth, such as trade facilitation and reduction of non-tariff barriers, to address the recession and weak growth arising from economic crises, as well as other issues of concern to the developing and least developed countries.

I am convinced that a refocused Trade Round should also contribute to addressing the major global cross-border challenges of climate change, food security, intellectual-property rights and piracy among others.

- Trade facilitation

As we prepare for MC9 in Bali, members must act rapidly to conclude the negotiations on issues of interest to developing countries, particularly LDCs. An agreement on Trade Facilitation is particularly important. The arguments in favour of trade facilitation are overwhelming. The average cost of moving trade through borders worldwide is 10%. The average trade weighted tariff worldwide is 5%. Currently, therefore, one has to pay twice as much in administrative operations, in order to move merchandise through borders, than one has in customs tariffs. It is worse for landlocked economies. The solution is to smoothen border crossing, eliminate roadblocks and red tape associated with inspections, and streamline customs. It is important for negotiators to engage fully in this area of negotiations that would be good for all.

- Trade in services

Services have become one of the most dynamic areas of international trade. The speed of changes in the global economy is being strongly determined by technology and services inputs into the overall processes of production. Commercial services are at the heart of rapid growth in both developed and developing economies, accounting for over 70% of GDP and 50% of GDP in developed and developing economies, respectively. It would be worthwhile to focus on particular services sectors that are the drivers of growth and transformation namely, financial services, information and communications technology, transport and logistics services, and those services sectors that bolster production such as research and development, engineering, distribution and marketing. I recognise a group of members are providing leadership in this area. It is incumbent upon us to support them.

- Free trade agreements

Some consider bilateral and regional trade agreements as a challenge to the primacy of the rules-based Multilateral Trading System. There are currently over 300 such agreements. Approximately 90% of WTO members participate in these agreements, accounting for a substantial proportion of global trade. There are many reasons for the

pursuit of trade agreements by WTO members. However, it is also clear that there is an inverse relationship between the speed of progress on WTO multilateral negotiations on the one hand, and the proliferation of FTAs on the other. Although there are benefits from FTAs to the countries that pursue them, the real risk of FTAs is systemic: the threat that they may lead to the erosion of the fundamental WTO discipline of non-discrimination, and an erosion of the primacy and effectiveness of trade multilateralism.

However, the WTO has to coexist with the reality of FTAs. This will require imagination and creativity. The less progress made in the WTO on rule-making and market access, the stronger the proliferation of FTAs is likely to be. Those that will suffer in the absence of progress at the WTO will be the weak and the vulnerable. The solution is to achieve substantial progress in the WTO.

- Development dimensions of the trading system

We need to address the question of how a rules-based system can be reconciled with national development priorities and a WTO development work programme that assists members in the achievement of these priorities. Like several other candidates in this election process, I originate from a developing country. I am aware of core development challenges. However, we need to reflect deeply on the relationship between trade and development in a rules-based Multilateral Trading System, with a balance of rights and obligations and where members have specific commitments and obligations. Responding to the challenges of development, in a rules-based system, should not unintentionally lead to the fragmentation and weakening of the rules and disciplines. The level playing field that is sought in the system is for rules that are non-discriminatory, with exceptions as waivers and on a case-by-case basis.

Specifically, on the development aspects of our rules-based Multilateral Trading System and drawing on lessons from the past 12 years, I believe that we should build on those areas where members have made progress. These include cotton-development assistance, technical assistance and capacity building and the WTO coordination of Aid

for Trade, delivered by other organisations that have the resources and capacity to do so.

Cotton is an item of importance to LDCs. The trade policy aspect will need to be addressed within the agriculture negotiations. Important gains have been registered on Cotton Development Assistance, within the framework of the Director-General's Consultative Framework Mechanism on Cotton. We should continue to build on these, to which both the donors and developing countries have contributed.

Trade is an engine for growth and development. Using trade to achieve growth is linked to domestic reforms for diversification, modernisation and a rebalancing of economies. In the course of these reforms, policy space may be required. In the course of these reforms, policy space may be required and would need to be discussed by the membership.

- Food security

The WTO has a major role to play in achieving global food security. These contributions could be made through improved disciplines on subsidies; reductions in tariff peaks and escalation; tighter disciplines on export restrictions; and, improved coherence by the WTO with other organisations working in these areas such as the Food and Agricultural Organisation and the International Fund for Agricultural Development. However, the primary responsibility lies with national governments to create the right policy environment for improved investments in agriculture for greater productivity.

- Climate change

Climate change is a major challenge to sustainable development and sustaining life on earth as we know it. The rules-based trading system can contribute to addressing this problem. The Doha mandate on trade and environment remains relevant. I believe that WTO members could build on and strengthen the list of environmental goods proposed at the APEC Vladivostok Summit for further liberalisation.

## **Vision and priorities as WTO Director-General**

My vision of the organisation revolves around the imperative of an updated agenda for trade negotiations which is relevant to contemporary challenges in the global economy; the desperate necessity for commensurate and shared responsibilities in a rules-based system; and, the expansion of stakeholders to ensure the relevance of WTO. I would dedicate my energies to addressing these challenges in partnership with the WTO membership and the heads of other Multilateral Institutions.

As Director-General I would focus on three priorities:

First, the establishment of a new WTO implementation and trade-opening coalition. This will be an inclusive and transparent trade coalition that reflects the ‘enlargement’, of the WTO membership through the recent expansion in the membership of the organisation. The new coalition will entail shared commensurate responsibilities in a rules-based system. It is no longer realistic to expect a few members to shoulder the leadership burdens of driving trade multilateralism. There are duties for all.

Second, the development of an updated agenda for multilateral trade negotiations that is relevant to the contemporary challenges of recovery from economic crises, growth and employment, environmental protection, notably climate change, and food security.

Third, in consultation with members, the establishment of a WTO Business Advisory Council. The absence of a commercial push has been a source of weakness for the WTO, affecting its credibility and relevance as an engine of global economic recovery and growth. Without the support and impetus of business, there will be minimal progress in the WTO. The accessions of China and the Russian Federation bear testimony. Concluding the Trade Facilitation negotiations would be one of the key interfaces to better engage the private sector and global business.

## **Concluding remarks**

Since 1948, Executive Directors of the GATT, later renamed Directors-General *ex officio*, have evolved to be guardians of the rules-based system. This is an institutional responsibility whose primary focus in a rules-based system is to consolidate and preserve the *acquis* of the organisation; monitor and report on trade policy trends of relevance for the global economy; facilitate stable negotiating consensus; and, operate in coordination with key multilateral institutions so that the organisation remains nimble and relevant in global problem-solving.

In 2005, as Chairperson of the General Council, I managed the selection process of the incumbent Director-General and I know how demanding the process can be. It tests and challenges the system. As a former Chairman of the Council, I am proud to claim that the WTO has the best process of selecting its Head, amongst all intergovernmental multilateral institutions. In the past, the system held up well. Eight years later, it is an even bigger challenge with nine candidates, but I am confident the process will function as well as it then.

I left Geneva seven years ago when I completed my final task as the Chairperson of the General Council. While I did not lose sight of the WTO issues, I went on to work in other areas of governance: environmental protection; constitution drafting, targeted at domestic conflict and dispute resolution in a multi-ethnic society; poverty reduction; diplomacy and foreign policy. This experience will help me to contribute to the important work of the WTO.

In closing let me reiterate that a strong leadership role, in service to the membership, is vital. I borrow from the eloquence of Sir Winston Churchill, who once famously said: “The nation will find it very hard to look up to the leaders who are keeping their ears to the ground.” There will never be a substitute for strong leadership. The challenge and strength of the WTO is that we are all ‘leaders’ at different levels. members expect their Director-General to lead and that is what I intend to do.

The best years of the WTO are not in the past. They are in its future. There is always a golden past. But the best is never in the past.

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# The multilateral trading system and WTO: Challenges and priorities

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## **Mari Pangestu**

Minister of Tourism and Creative Industries of Indonesia. Between 2004 and 2011 she was the Minister of Trade.

Many observers seem to think that the Doha Round of negotiations has reached a point of stalemate after more than ten years of effort and that as a consequence the multilateral trading system is in crisis. At one level this is true in that if a successful outcome to Doha could be achieved, many of the present challenges to the system would be resolved: no crisis. But at another level the basic principles that underlie the WTO and constitute the intellectual support for free trade are being undermined and the organisation is seriously weakened. In other words: the WTO is not just about completing the Doha Round, it is also about the basic principles and the strength of a system.

This essay is intended to lay out the context and challenges facing the trading system today, and more importantly, discuss the priorities and responses that are critical to ensure that we can safeguard the integrity of a global rules-based trading system that benefits all.

## **The context: global crisis and trade**

Trade has been and continues to be an important engine of growth, job creation and poverty reduction. Countries such as Indonesia, a large developing country, have seen their economies be transformed because of trade and opening up of the economy. The imperative has not changed. Trade should remain an important engine of growth, especially given that sustainable recovery in the world economy continues to elude us. World trade growth has slowed down to 2.5% in 2012 and is expected to be 4.5% in

2013 compared with 5.4% average growth of the last 20 years, and 6% in the period right before the crisis.

Since the global financial crisis in 2008, the G20 leaders and others have seen the importance of ensuring trade continues to flow and called for a standstill or refraining from protectionism. At the end, even though there were and continues to be measures undertaken with restrictive outcomes, the existence of the rules-based framework and the peer pressure review introduced by G20 can be attributed to minimising increased protectionism.<sup>1</sup> As a trade minister from a G20 member country, I can attest that this peer pressure helped us to manage the types of measures took in response to the crisis. As unemployment continues to be a problem in all countries, including in advanced economies, Governments will continue to face pressure to grant assistance to individual companies in an effort to preserve jobs.

Given the above, it goes without saying that all countries have a shared interest in maintaining confidence in an open, rules-based, fair and balanced trading system. The cure for increased protectionism is not just ensuring that the rules-based framework of the WTO works and that the peer pressure review introduced by the G20 is continued, but also to generate greater market access. This of course means the completion of the Doha negotiations, which would generate benefits for all WTO members. The estimated benefits vary depending on the assumptions made and the elements of the package, but range from \$100 billion to \$300 billion in additional income for the world economy. The estimates are higher if a comprehensive services liberalisation and trade facilitation package are included in the assessments.

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1 In the most recent WTO, OECD and UNCTAD report on Trade and Investment Measures undertaken in October 2012, it was found that the increase in more restrictive measures slowed down in the last six months, but that the totality of such measures since 2008 is estimated to affect 3% of all imports. In terms of types of measures used, there was increased restrictiveness of customs-related procedures, increased use of trade remedies especially antidumping initiations (which increased by 43% in 2012 compared with 2011), and greater use of SPS and TBT measures. At the same time some countries also reduced tariffs.

## Challenges facing the multilateral trading system

- Role of emerging economies

There are many challenges facing the multilateral trading system. The world has changed since the Doha negotiations were started in 2001. The spirit of the negotiations then was to redress imbalances and even injustices between developed and developing nations. However 12 years down the road, a world economic crisis and the rise of emerging economies tells us that we live in a multipolar world. Emerging economies and regions have become the new poles of growth. Emerging economies such as China, India, Brazil, South Africa, Russia (a recently acceded WTO member), Turkey, and my own country Indonesia, are contributing a greater share of growth and trade flows. The slowdown in external demand by advanced countries post-2008 was partially offset by growth of demand in emerging economies.<sup>2</sup> These shifts in economic development also impact on the balance of global governance and the need to account for the role of emerging economies.

- Global value chains

The way we trade has also been changing and evolving. A decade or so ago an export-oriented strategy based on division of the production network between low-cost, labour-intensive activities and higher value-added and human capital-intensive parts of production was the norm. One talked about graduating up the value chain. Today the division of production is much more fragmented and it is not just about production of goods. The recent work done on measuring trade in value added by the OECD and others shows clearly that the global value chain is increasingly determining today's production location and trade flows. The global value chain makes it possible for more countries and companies to engage in international trade. Small and developing countries can 'leapfrog' and choose to specialise in one or more segments of the value

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<sup>2</sup> For instance, the World Bank estimates that two thirds of French and German companies recent export growth came from emerging markets.

chain. Similarly, small and medium-sized enterprises can specialise in any one part of the value chain and benefit from the global market for a product.

Accounting for the value added that is embedded in exports has important implications for policy and multilateral cooperation. The data show the important role of imports of intermediate goods and of the various services that go into exports. The global value chain will function more efficiently under a multilateral trading system with one set of rules, standards and market-access commitments. This can be contrasted to the more inefficient and higher cost of doing business alternative of multiple rules, standards and schedules of tariff reductions under various bilateral and regional agreements.

- Other challenges

Globalisation means that trade has an impact on many things and vice versa. For instance, where a country wants to be in the value chain is related to attracting investments and the availability of key services that are needed by firms. Trade and investment are interlinked. Other linked issues include dealing with the nexus between climate change and trade; the impacts of trade policy on food security; and the link between exchange-rate management and trade competitiveness. The recent financial crisis underlined the need for better coordination and coherence between international institutions to address issues such as availability of trade finance and ‘currency war’-type tensions that can have impacts on trade flows.

Another challenge for the WTO is the increase in the number of bilateral and regional agreements that WTO members are a party to. While these are not new, what is new is that some of the major WTO members are beginning to negotiate agreements between themselves. The most recent major initiative is of course the EU-US Transatlantic Trade and Investment Partnership Agreement. The issue at hand is not choosing between multilateral or bilateral and regional agreements, but managing these agreements to ensure consistency and complementarity with the multilateral trading system.

- Priorities for the multilateral trading system

Given the importance of trade as an engine for recovery and the various challenges noted above, what are the priorities in terms of continued confidence in the basic principles and strengths of the WTO?

### **Safeguarding the integrity of the system: WTO is not Doha**

A recent survey of business done by the WTO showed that 95% of the businesses surveyed believe the WTO is vital for business and 72% believe the WTO is successful in ensuring that governments comply with their commitments. These findings are echoed in the various meetings I have had with chambers of commerce in various countries that I visited in recent weeks. This feedback on the role of the rules-based trading system, the dispute-settlement procedures, and the monitoring of WTO commitments is very important proof of the relevance of the WTO. The current system is also deemed fair and equitable, because it treats large and small, developed and developing, weak and strong countries the same. We need to continue to strengthen the system, including updating the rules to keep up with the times.

The counterfactual is important to bear in mind. What if there was no WTO or no confidence in the WTO and its rules and system? The rise in protectionism post-2008 crisis would have been much worse and the world would be confronted with even more bilateral and regional agreements.

- The trade and development agenda

Trade and development is at the heart of the challenge confronting the multilateral trading system and WTO. Trade can play a transformative role in development – I have experienced this in my own country. The importance of trade in the structural transformation process of countries is well established. As Indonesia's Trade Minister for seven years, I witnessed how trade transformed our nation after the Asian crisis and led to economic growth, development, and poverty reduction. Our exports almost tripled in the seven years I served as trade minister. More broadly, I saw the reality and the potential for the transformative role of trade in ASEAN as well as the wider east

Asia region, and in the WTO as coordinator of the G33. This experience means that not only do I understand the challenges faced by developing countries when they are in the process of opening up, but also how to manage these challenges. At the same time I also managed the cooperation and agreements Indonesia had with developed-country partners to ensure that there was a win-win outcome.

I believe an open rules-based multilateral trading system can facilitate the full integration of developing countries into global trade and support their structural economic transformation. However, in order to reap the full benefits of trade, a multilateral trading system has to be inclusive. That means to bring along the less developed countries so that they can benefit from greater market access.

For trade to support structural transformation, an appropriate national and international enabling framework must be in place to provide a level playing field and enable the least developed and other developing countries to overcome their structural challenges. On the national front, opening up trade must be accompanied by complementary policies to ensure that the benefits will be more equally shared and the downside risks for sectors or groups within the country are managed. On the international front, we need to ensure that market opening is accompanied by capacity building initiatives to help those countries bring to market internationally competitive and tradeable goods and services. I believe the WTO is and should continue be at the forefront of efforts to make this happen.

We need to reaffirm that special and differential treatment for developing countries and least developed countries is an integral part of WTO agreements. However we also have to recognise the growing role of emerging economies. Emerging countries which have parts of their country that are underdeveloped will still need time for transition and dealing with structural challenges, but they can give more than other developing countries. However, they should also not be expected to give the same as advanced or developed countries. Least developed countries should be even exempted or excluded, and provided with effective capacity building, and investments in infrastructure.

Developing countries with different levels of development and needs will also continue to need well-targeted capacity building. At the same time, emerging economies, not just developed countries, should also now be in a position to provide this capacity building to LDCs and other developing countries.

LDCs have concerns regarding the specific constraints they face in implementing effectively the commitments reached in negotiations. I believe we should continue to promote WTO's role in Aid for Trade and the effective implementation of the existing Enhanced Integrated Framework (EIF) for LDCs. The Aid for Trade initiative provides a platform to help developing countries and least developed countries to leverage funding to benefit from market opening. We need to strengthen our support for the effective implementation of EIF which allows LDCs to access Aid for Trade funding, complementing resources available in the EIF Trust Fund. LDCs must be supported in mainstreaming trade into their national development plans and to address their trade capacity-building requirements.

Finally, significant progress toward conclusion of the Doha Development Agenda (DDA) can play a transformative role in development of LDCs. Elimination of trade-distorting policies in agriculture as well as improved market access for all LDCs products and services could be realised by concluding the Doha Round.

- Reactivation of multilateral negotiations

I continue to believe that progress can be made in the DDA. Given that the WTO is the premier forum for multilateral negotiation on trade, its continued relevance is also shaped by progress in multilateral negotiations. The Doha Development Agenda was launched in 2001. There was a lot of momentum in the negotiations in the 2004-08 period to define the framework and modalities of various components of the single undertaking, but it has been stalled since July 2008.

Even though we have been at an impasse for some four years, the potential gains from completing the Doha Development Agenda are still clear in terms of providing greater market access, updating of rules and benefiting developing countries. Certainly the

business people feel that way. According to the WTO survey of businesses mentioned above, 62% believe that the Doha Round can bring payoffs to business and that conclusion of the Doha Round will improve the current economic outlook.

We need to get back the momentum to make progress on the multilateral negotiations and strive for a balanced outcome that will benefit all members and their stakeholders. How should we move forward?

At the 8th WTO Ministerial Conference (MC8), members agreed to explore realistic and pragmatic ways forward, that is:

- To explore different negotiating approaches while respecting the principle of transparency and inclusiveness.
- Advance negotiations where progress can be achieved including focusing on elements of Doha declaration than allow to reach provisional or definitive agreements based on consensus earlier than full conclusion of single undertaking
- Intensify efforts to look into ways that may allow members to overcome the most critical and fundamental stalemates in the areas where multilateral convergence has proven to be especially challenging

These principles essentially mean that members have agreed to explore a possible ‘early harvest’ or ‘stepping-stone’ approach to completing the comprehensive Doha package. The current focus is to get an ‘early harvest’ package agreed at the 9th Ministerial Conference in Bali (MC9) this coming December. There has been agreement that a balanced early harvest package would include Trade Facilitation (including the capacity building components), development components in agriculture and an LDC package.

A successful outcome in Bali will necessitate an intensive process of negotiations on the different elements of the early harvest in Geneva in the next six months. As many WTO members have pointed out, it will be also important at MC9 to have a post-Bali road map to complete the remaining Doha negotiations. Many have expressed the view that the ‘early harvest’ should not be the ‘only harvest’.

To achieve the desired progress, there have to be intensive Geneva-based technical discussions and negotiations. However, we all know that consensus and convergence will not happen without political will and engagement from capitals. Therefore ministers need to be engaged with their Geneva representatives and every opportunity of informal meetings of trade ministers as well as leaders should be utilised to push progress. In the forthcoming months there are a few such opportunities, including the APEC Trade Ministers' meeting in April, the G20 Summit in early September in Russia and the APEC Economic Leaders Meeting in Bali in early October.

It is not an easy proposition to achieve an early harvest and to define the future road map; the challenges are great. However, maximum effort and political will must be exercised as progress and momentum in multilateral negotiations are much needed right now.

## **WTO and variable geometry**

In the call to explore different negotiating approaches, there are suggestions to pursue sectoral agreements. Examples include an agreement on environmental goods and services and the Information Technology Agreement 2 (ITA2). These approaches would still come under the Doha mandate. Another approach which has recently resurfaced is plurilateral agreements and more specifically in services which fall outside of the Doha mandate. The purpose is to continue the process of opening up in a step by step manner with a subset of members. If we take the wording of the MC8, what will be important is how these different approaches can be undertaken "while respecting the principle of transparency and inclusiveness".

The first key issue is whether these agreements are applied to all WTO members on a MFN basis, or applied on a preferential basis, only among the parties to the agreement. This is a key point in considering their consistency with WTO rules. The few examples of sectoral agreements have been based on a subset of members who make up critical mass of trade in the sector and come under the first category of MFN application. The

Information Technology Agreement (ITA) and any second ITA that may be agreed, as well as the agreement on environmental goods and services is designed to be applied to all WTO members.<sup>3</sup> In both cases initial agreement on critical mass under ITA1 and EGS came about at APEC meetings (in 1996 and 2012, respectively), and were then brought to the WTO for negotiations. Both were made or intended to be applied on an MFN basis. The ITA2 is also potentially a critical mass agreement that can be initially agreed upon in APEC and taken to the WTO for negotiations. These approaches are also good examples of complementarity between regional and multilateral processes. The first category of MFN application is consistent with the WTO.

In the second category (non-MFN) are formal plurilateral agreements under auspices of the WTO, the main example of which is the Government Procurement Agreement (GPA) which was approved by all members in Marrakesh. Such non-MFN agreements may be negotiated outside of the WTO if they do not impinge on existing WTO rights and obligations. The ACTA agreement on counterfeit trade (not yet in force) is an example.<sup>4</sup> A plurilateral agreement on services is being negotiated among a group of countries that are interested to liberalise further trade in services, but its application to other members, and the terms on which that may be agreed, are not yet clear—if talks are successful, the agreement may be structured as a free trade agreement under the GATS. These agreements are mostly open to other parties to join at a later stage, in principle; but the conditions for joining (full acceptance, or on terms to be negotiated) vary case to case. Such agreements can be regarded as ‘open’ even if applied on a discriminatory basis; but it may be misleading to describe them as inclusive.

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3 The ITA which was agreed in Singapore in 1996 is an MFN agreement, with tariff eliminations applied by the parties to all WTO members. A second ITA is proposed on the same basis. An agreement to eliminate tariffs and other barriers on Environmental Goods and Services was reached in APEC in 2012. The tariff measures – reductions in applied rates – would be MFN for all imports that qualify on the agreed list of such goods.

4 The GPA is applied only among the parties who negotiated the terms of the agreement with each other. It is therefore non-MFN but this was approved by all WTO members in 1994 at Marrakesh as part of the results of the Uruguay Round and thus fulfils the transparency principle. The agreement is ‘open’ to other members who can join the agreement by negotiation with the parties. ACTA (the Anti-Counterfeiting Trade Agreement) is a draft agreement concluded in 2012 outside the WTO between more than 30 countries that deals with enforcement of existing intellectual property rights, but not yet ratified and in force. It would be applied only by the parties to each other, although some measures would be applied to all imports. It would be open to third parties to join at a later stage.

Another category of variable geometry would be the increase in bilateral and regional agreements by WTO members especially in the last 15 years. Again we have subset of countries entering into various levels of comprehensive free trade or economic partnership agreements. They range from agreement on specific issues such as trade in goods, to comprehensive agreements, which include goods and services as well as investment, trade facilitation, competition policy, and intellectual property rights. Some also have the more sensitive areas such as government procurement, environment and even labour.

In the Asian region there has been the ASEAN Free Trade Area which started with tariff elimination for intra-ASEAN trade and then evolved into the comprehensive ASEAN Economic Community by 2015. This was also followed by ASEAN Free Trade Agreements with each of its main dialogue partners. They all started as the classical form of trade agreement designed to establish free trade on a preferential basis among the parties, but evolved to be more comprehensive including new issues such as environment, and becoming ‘partnerships’ by incorporating capacity building in recognition of the different levels of development of members.

Recently new proposals for major regional agreements have been under discussion, such as the comprehensive and high quality agreement being negotiated under the Trans Pacific Partnership in the Asia-Pacific region, and the EU-US initiative on liberalising transatlantic trade and investment. Both are comprehensive, including a focus on nontariff measures, regulations and government procurement.

My view is that all approaches should be welcomed and what is key is to ensure that we manage these processes to be consistent with – and complementary to – the WTO. My approach would be to seek to establish consistency and linkages between these different approaches and agreements and the multilateral system. In essence there have to be pathways for making these agreements more multilateral at some point. Some basic principles could include open architecture norms such as open accession, transparency and best standards and practices, along the lines of those adopted by leaders in

consolidating existing agreements into an East Asia Regional Comprehensive Economic Partnership Agreement. Another important trade and development principle is how to have differentiated pathways of ‘joining’ that is combined with effective capacity building to account for different levels of development and ensure inclusiveness.

Comprehensive and high-quality regional or bilateral agreements, such as an EU-US Transatlantic Trade and Investment Partnership Agreement, could also complement and act as a catalyst for completing multilateral negotiations. Progress towards more comprehensive regional agreements can act as an impetus for the completion of WTO negotiations, just as the negotiations of NAFTA and creation of APEC helped to conclude the Uruguay Round. To the extent that such agreements address ‘Doha plus’ issues they can also inform the possible way to shaping future multilateral rounds.

## **Responding to 21st-century trade issues**

To ensure that WTO remains relevant it needs to begin addressing the so-called 21st-century Trade issues. While this should not be at the cost of diverting us from the priority task of completing the current multilateral negotiations, there is no shortage of issues that many observers suggest should be tackled by the WTO “if it is to catch up with the speed of events in the global trade world.” The current work of the WTO has actually already led to discussions on a number of the issues, especially through studies and the regular public forums on regional and bilateral agreements, global value chain, value-added in trade statistics, trade and food security, and trade and environment. We can build on this and do further work to include other topics such as investment.

One of the priority areas is the environment because of its likely impact on trade policy measures to mitigate global warming. Many thought that if the post-Kyoto regime set firm targets for reducing carbon emissions, and if such targets were not uniformly enforced, there would be a rush to relocate carbon heavy industries to areas that had less strict discipline. This would then be followed by tax or trade measures “to re-establish the level playing field”. No such targets were in fact set and the danger has receded;

but a lively debate about the rights and wrongs of applying WTO Article XX to such cases has not disappeared. Furthermore, to the extent policies in the name of reducing CO<sup>2</sup> emission are already being introduced unilaterally by countries and regions, it will be key to adhere to the WTO principles of transparency, non-discrimination and scientifically based criteria.

## **Conclusions**

I believe all members continue to share the vision of a global economy supported by free, fair, and open trade that boosts economic growth, drives development, and promotes sustainability. The WTO should help achieve these objectives by providing the overarching framework. The benefits of such an outcome are clear for all members, especially developing countries, and for all stakeholders.

There are clear challenges to achieving this outcome. In realising this vision it is crucial to safeguard the basic principles and architecture of the multilateral trading system. This can be achieved by continuing to strengthen the current rules-based framework of the WTO, maximising efforts to completing the Doha multilateral negotiations, and ensuring that there are coherent and effective capacity-building and aid for trade programmes. We all know the challenges of achieving progress on the multilateral negotiations. We should not overtly focus on what has gone wrong and the complexity of bridging various interests. We should not lose sight of the strengths that are the foundation for the multilateral trading system.

At the same time the WTO will have to deal with new challenges, including the different approaches that are being pursued by members outside of the WTO towards opening up economies, as well as new issues. The WTO needs to rise to these challenges by ensuring regional initiatives are building blocks towards multilateralism and comprehensive coverage. This could mean that the WTO needs to think about best practice principles regarding these different approaches, and how the WTO should link to – and interact with – sectorals, plurilaterals and regional/bilateral agreements.

We should not lose sight of the vision of a WTO that drives global growth and development through trade. And the simplicity and predictability that comes with a single set of global trading rules that benefit all countries and stakeholders, especially small countries and small businesses that don't have the resources to manage the complexity on dealing with different rules under bilateral and plurilateral trading systems.